

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
August 13, 2007

**D051401      People v. O'Shell**

The denial of a petition for writ of habeas corpus is not appealable. The appeal is DISMISSED.

**D049470      Josephson v. Conlon et al.**

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule. 8.244(c)(2)).

**D050692      In re Nguyen on Habeas Corpus**

The petition is denied.

**D050993      In re Hill on Habeas Corpus**

The petition is denied.

**D051070      People v. Alejandro A.**

The notice of appeal filed in this matter on June 13, 2007, was premature. The appeal is DISMISSED. The court notes a subsequent notice of appeal from the judgment was filed on July 20, 2007. (D051300).

Court convened at 9:00 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

Clerk: D. Moore

**D048286      People v. Garcia**

Cause called on merits. Robert E. Boyce, Esq. argued for appellant. Michael Murphy, Deputy Attorney General argued for respondent. Mr. Boyce replied. Cause submitted.

**D048154      People v. Troutman**

Cause called on merits. Carl Fabian, Esq. argued for appellant. Josh Fuladian, Certified Law Student argued for respondent. Mr. Fabian replied. Cause submitted.

**D048625      People v. Smith**

Cause called on merits. Neil Auwarter, Esq. argued for appellant. Josh Fuladian, Certified Law Student argued for respondent. Mr. Auwarter replied. Cause submitted.

**D050385      People v. Quitiquit**

Cause called on merits. Catherine Elizabeth White, Esq. argued for appellant. David Delgado-Rucci, Deputy Attorney General argued for respondent. Ms. White replied. Cause submitted.

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**D049309      People v. Strausbaugh**

**D049310      People v. Strausbaugh**

Cause called on merits. Howard C. Cohen, Esq. argued for appellant. Michael Murphy, Deputy Attorney General argued for respondent. Mr. Cohen replied. Cause submitted.

**D048574      Cates v. Wesley**

Cause called on merits. Manuel Corrales, Esq. argued for appellant. Christine M. Murphy, Deputy Attorney General argued for respondent. Cause submitted.

Court recessed at 11:14 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

Clerk: D. Moore

**D048845      People v. Upsher**

**D050640      In re Upsher on Habeas Corpus**

Cause called on merits. Howard C. Cohen, Esq. argued for appellant. Mariya Melkonian, Certified Law Student argued for respondent. Mr. Cohen replied. Cause submitted as to appeal, only, D048845.

**D048105      People v. Matlock**

Cause called on merits. Laura G. Schaefer, Esq. argued for appellant. Steve Oetting, Deputy Attorney General argued for respondent. Ms. Schaefer replied. Cause submitted.

Court recessed at 2:25 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D049181      Licudine v. Gallegos et al.**

Cause called on merits. Stanley L. Levine, Esq. argued for appellant. Daniel Barer, Esq. argued for respondent. Mr. Levine replied. Cause submitted.

Court recessed at 3:02 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

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**D049396      Whaley v. State of California**

Cause called on merits. Joel C. Golden, Esq. argued for appellant. Theodore S. Dracar, Deputy Attorney General argued for respondent. Mr. Golden replied. Cause submitted.

**D049984      Walsh v. McBride**

Cause called on merits. Michael F. Walsh, argued for appellant in pro per. Patrick Kearns, Esq. argued for respondent. Mr. Walsh replied. Cause submitted.

Court recessed at 3:36 p.m. until Tuesday, August 14, 2007 at 9:00 a.m.

**D049077      Hurst & Hurst v. Keenan et al./Webb & Carey, APC**

The order of July 5, 2007 placing the above-entitled matter on calendar for Tuesday, August 14, 2007 at 9:00 a.m. is vacated. Upon the written request filed by the appellants on August 13, 2007, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2)).

**D050694      In re Miguel A., a Juvenile**

The petition is denied.

**D050349      People v. Saucedo**

Judgment affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D051261      Beatriz C. v. Superior Court of San Diego County/S.D. County Health & Human Services Agency**

The attorney for petitioner Beatriz C. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D051417      People v. Williams**

The appeal is DISMISSED without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

**D051248      Martha G. et al. v. Superior Court of San Diego County/S.D. County Health & Human Services Agency**

The attorney for petitioner Martha G. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case as to Martha G. is dismissed.

**D050902      In re Hailie G., a Juvenile**

The appeal is dismissed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D049741      Goldfarb et al. v. Allan et al.**

The opinion filed July 24, 2007, is modified as follows:

Last line, at page 20: delete footnote 4 reference and footnote 4 text. The petition for rehearing is denied. There is a change in the judgment.

Court convened at 9:00 a.m.

Present: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke  
Clerk: D.Moore

**D049679      The Cadle Company, Inc. v. Sundance Financial Inc., et al.**

Cause called on merits. Templeton Briggs, Esq. argued for appellant. Ethan T. Boyer, Esq. argued for respondent, Sundance Financial. William E. O'Neill, Esq. argued for respondent, Pacific Scene. Mr. Briggs replied. Cause submitted.

**D049006      National Film Laboratories, Inc. v. California State Board of Equalization**

Cause called on merits. David Louis Gangloff, Esq. argued for appellant. Leslie Branman Smith, Esq. argued for respondent. Mr. Gangloff replied. Cause submitted.

Court recessed at 9:56 a.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Joan Irion

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**D049858      People v. Salgado**

Cause called on merits. Patrick J. Hennessey, Esq. argued for appellant. Jennifer Dockter, Certified Law Student argued for respondent. Mr. Hennessey replied. Cause submitted.

**D049020      People v. Stuedemann**

Cause called on merits. Milton J. Silverman, Esq. argued for appellant. Laurie Hauf, Certified Law Student argued for respondent. Cause submitted.

Court recessed at 10:41 a.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

**D048689      People v. Nakamura**

Cause called on merits. David Chipman Venie, Esq. argued for appellant. Angela Dominguez, Certified Law Student argued for respondent. Mr. Venie replied. Cause submitted.

Court recessed at 11:15 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

Clerk: D. Moore

**D049109      People v. Palmer**

Cause called on merits. Allison Stanley, Esq. argued for appellant. Jeffrey J. Koch, Deputy Attorney General argued for respondent. Mr. Stanley replied. Cause submitted.

**D050425      People v. Fanelli**

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Jeffrey J. Koch, Deputy Attorney General argued for respondent. Mr. Ford replied. Cause submitted.

**D046794      Stretton v. Tobey et al.**

Cause called on merits. Diane Gail Stretton, argued for appellant in pro per. Lori L. Krupa, Esq. argued for respondent, Tobey. Ms. Stretton replied. In open court, Ms. Krupa granted permission to file responsive papers. Cause to be submitted in 10-days.

Court adjourned at 3:21 p.m.

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**D050983      In re O'Shell on Habeas Corpus**

The petition is denied.

**D051384      Heltzel et al. v. Superior Court of San Diego County/XO Communications, Inc., et al.**

The petition is denied.

**D050407      In re Alexandria M. et al., Juveniles**

The petition is denied.

**D049807      In re Elijah P. et al., Juveniles**

On the Court's own motion, rehearing is granted.

**D048150      Rivet v. Stodter**

The petition for rehearing is granted. No further briefing is required. The matter is deemed submitted as of this date.

**D051371      Cravens v. The Superior Court of San Diego County/People**

The petition is denied.

**D051161      Branch v. The Superior Court of San Diego County/People**

The petition is denied.

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**D050402      People v. Beightol**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D050573      In re Isabel C., a Juvenile**

The order is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J, McDonald, J.

**D051385      Amber P. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

The petition for extraordinary writ is dismissed as moot.

**D048103      McGarry v. University of San Diego et al.**

Order certifying opinion for publication.

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**D051452      People v. Mann**

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is DISMISSED without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

**D050173      In re Z.B. et al., Juveniles**

The orders are affirmed. Haller, Acting P.J.; O'Rourke, J., Irion, J.

**D048555      People v. Eqhiahua**

The no-contact order is stricken and the judgment is otherwise affirmed. McDonald, J.;  
We Concur: Haller, Acting P.J., McIntyre, J.

**D050559      People v. Ross**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316).

**D049087      Tachs Property Development v. Xinos**

Judgment affirmed. Appellant to bear respondent's costs on appeal. Haller, J.;  
We Concur: Nares, Acting P.J., O'Rourke, J.

**D051449      People v. Zagaria**

The notices of appeal are premature because the proceedings were suspended under Welfare & Institutions Code, section 3051. The appeal is DISMISSED without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

**D051013      Chula Vista Elementary School District et al. v. Workers' Compensation Appeals Board and California Insurance Guaranty Association et al.**

The petition is denied.

**D051004      In re Schlappi on Habeas Corpus**

The petition is denied.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D049984 Walsh v. McBride**

The judgment is affirmed. McBride is entitled to costs on appeal. McDonald, J.;  
We Concur: Haller, Acting P.J., Irion, J.

**D051425 Levi v. Superior Court of San Diego County/People**

The petition is denied.

**D049658 People v. Elliott**

**D049928 In re Elliott on Habeas Corpus**

**D050212 In re Elliott on Habeas Corpus**

The pending petitions for writ of habeas corpus, In re Tyrone Marcel Elliott, D049928 and D050212, are consolidated with the pending appeal, People v. Tyrone M. Elliott, D049658, for disposition.

**D049658 People v. Elliott**

**D049928 In re Elliott on Habeas Corpus**

**D050212 In re Elliott on Habeas Corpus**

The judgment is affirmed. The petitions for writ of habeas corpus are denied. Haller, Acting P.J.;  
We Concur: McDonald, J., Irion, J.

**D050168 Durbin v. Superior Court of San Diego County/Parinello et al.**

By letter filed on August 15, 2007, petitioner Diana Durbin withdraws the petition filed on January 22, 2007.

**D049933 Durbin v. Parinello**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party shall bear his or her own costs on appeal.

**D049109 People v. Palmer**

The order is modified to remove questions relating to stalking programs from the polygraph condition; the order is otherwise affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

**D049111 Torres et al. v. City of San Diego et al.**

Order certifying opinion for publication.

**D049250 Poway Royal Mobile Homeowners Association et al. v. Poway  
Redevelopment Agency et al.**

The order is reversed insofar as it concerns the amount of the attorney fees award. The trial court is directed to hold a hearing to recalculate the award in line with this opinion. In all other respects, the order is affirmed. The parties are to bear their own costs on appeal. McConnell, P.J.; We concur: Haller, J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D047824      Jameson v. Desta**

The petition for rehearing is denied.

**D051016      In re Shufelt on Habeas Corpus**

The petition is denied.

**D051017      In re Arias on Habeas Corpus**

The petition is denied.

**D050555      People v. Delane**

The Petition for Rehearing is denied.